

II.
ARGUMENT

2. On June 23, 2014, a letter was sent to defense counsel attaching a spreadsheet that identified numerous missing pages from documents produced by Defendants and requesting complete documents to include and any exhibits attached thereto. *See the June 23, 2014 Letter attached hereto as Exhibit "A."*

3. After no response, on August 6, 2014, a letter was sent again requesting the production of these documents and notifying Defendant of our intent to file a Motion to Compel in compliance with the Scheduling Order in the above-styled and numbered cause. *See the August 6, 2014 Letter attached hereto as Exhibit "B."*

4. In response, on August 7, 2014, one of the attorneys for Defendants, Matthew S. Veech, sent an email that said, "I am trying to track this down, but I will need some time." *See the August 7, 2014 Email attached hereto as Exhibit "C."*

5. On August 13, 2014, counsel for Plaintiff contacted counsel for Defendants to check for a status on the production of these documents. *See the August 13, 2014 Email attached hereto as Exhibit "C."*

6. On August 14, 2014, counsel for Defendants responded, "I just spoke to [another lawyer for Defendants] about this and he is working on it – we don't have an answer yet." *See the August 14, 2014 Email attached hereto as Exhibit "D."*

7. Plaintiff has been asking for dates to take the depositions of Ben McKibbons, two (2) corporate representatives, and Defendants' expert witnesses; as of the date of this Motion, dates have not been provided by the Defendants. *See the compilation of correspondence between counsel regarding the scheduling of depositions and corporate representative deposition notices collectively attached hereto as Exhibit "E."*

Defendants have, however, committed to providing dates for these depositions in the

very near future. In the event that the promised deposition dates are provided, and assuming that they are mutually agreeable dates, then this requested relief will no longer be necessary and Plaintiff will immediately notify this Court so that these depositions need not be compelled. This relief is included in this motion only because non-dispositive motions are due to be filed today, and absent performance of the promises to supply agreeable deposition dates and locations, Plaintiff includes this contingent relief in this Motion in order to preserve the right to compel these depositions if agreeable dates and locations are not provided by the Defendants. In an effort to avoid inclusion of these requested depositions, counsel for Plaintiff offered to enter into an agreement with counsel for Defendants whereby each side would, by the week following the filing of this Motion, produce dates and locations for the requested deposition witnesses; as of the filing of this Motion, the Defendants had neither accepted that offer nor proposed an agreement that accomplished these depositions. *See the August 15, 2014 emails proposing an agreement for dates of requested deposition witnesses to be provided next week attached hereto as Exhibit "F."*

III. **CONCLUSION**

8. Plaintiff attempted to resolve this discovery issue without Court involvement, but Defendants have yet to produce the complete documents.

9. By way of this Motion, Plaintiff requests this honorable Court enter an order compelling Defendants to produce the complete documents identified in Exhibit "A," including any and all exhibits attached thereto, and for such other and further relief to which Plaintiff may be entitled.

10. Further by way of this Motion, Plaintiff requests this honorable Court enter an order compelling Defendants to produce the following witnesses for

deposition within thirty (30) days of this Court's Order: Ben McKibbons, the corporate representatives noticed by Plaintiff on July 25, 2014, and all expert witnesses designated by the Defendants, and for such other and further relief to which Plaintiff may be entitled.

Respectfully submitted,

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CERTIFICATE OF CONFERENCE

I, Edward W. Allred, hereby certify that on various dates in June, July and August, 2014, I conferred with counsel for Defendants regarding the discovery and relief sought in this motion.

/s/ - Edward W. Allred
EDWARD W. ALLRED

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing document was served on the following attorneys of record in accordance with the Federal Rules of Civil Procedure on this 15th day of August, 2014:

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